THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.21701 OF 2005

Dated: October, 2005.

Between:

Uppu Nageswara Rao … Petitioner

And

1. The Kopparru Primary Agriculture Co-operative Society Limited, 3260, Kopparru, Narasapur Mandal, West Godavari District, rep. by its Secretary.
2. The Election Officer, The Kopparru Primary Agriculture Co-operative Society Limited, Kopparru, Narasapur Mandal, West Godavari District. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.21701 OF 2005

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ORDER :

This writ petition is filed seeking a declaration that the alleged action of the respondents in deleting the name of the petitioner from the voters list of the 1st respondent society – Kopparru Primary Agriculture Co-operative Society Limited and in not entertaining his claim for inclusion of his name in the voters list as arbitrary and illegal.

It is not in dispute that the petitioner has been a member of the 1st respondent society from the year 1985. It is stated that he belongs to scheduled tribe community and he was elected as Director of the Board of the Managing Committee of the 1st respondent society in the year 1992 and continued as such from 1992 to 1995. While so, the election to the Managing Committee of the 1st respondent society has been scheduled to be conducted on 26-10-2005. In pursuance thereof, the 2nd respondent – Election Officer has been appointed. As per the election schedule, the Election Officer has to publish the voters list in respect of the 1st respondent society on 10-10-2005. In terms of the procedure prescribed under Rule 22 of the A.P. Co-operative Societies Rules, 1964 (for short, 'the Rules'), the Secretary of the 1st respondent society has prepared the list of members eligible to vote, so as to communicate the same to the Election Officer. However, the name of the petitioner did not find place in the said list and the petitioner came to know that his name was not included in the list since he failed to produce a copy of the lease agreement to show that he is holding agricultural land as a tenant in the area of operation of the 1st respondent society.

The petitioner claims that as a matter of fact he has furnished the lease agreement, dated 1-6-2005 to the Secretary of the 1st respondent society on 5-9-2005 itself and again he furnished a copy of the same on 3-10-2005. However, the Secretary of the society refused to receive the same and consequently his name has not been included in the list of eligible voters. Aggrieved by the said action of the 1st respondent, the present writ petition is filed contending that since he is continuing as a member of the society and since he is also eligible to exercise the right to vote, having satisfied the conditions prescribed under Rule 18, the respondents are not justified in not including his name in the voters list. It is also alleged that the

Secretary of the 1st respondent Society has refused to include his name in the voters list at the instance of the busy bodies in the locality.

In the counter-affidavit filed on behalf of the 1st respondent society, the fact that the petitioner is a member of the society has not been disputed. However, the plea of the petitioner that he is cultivating the lands on lease has been denied. The further plea of the petitioner that he submitted the lease agreement dated 1-6-2005 has also been categorically denied. It is stated that the final voters list was prepared and the same was placed in the notice-board on 5-9-2005 itself for objections, if any, but the petitioner failed to raise any objection. The allegation of the petitioner that he approached the Secretary of the Society on 3-10-2005 and furnished a copy of the lease agreement, but he failed to receive the same has also been denied. It is further stated that as per Rule 14 (2) of the Rules as amended under G.O.Ms.No.223, dated 27-6-2005, a tenant who seeks membership shall produce evidence of his tenancy in the form of an agreement witnessed by two members of the same society duly certified by the Panchayat Secretary of the Village concerned. Since the petitioner failed to produce such evidence of his tenancy, his name has been rightly not included in the voters list. The said action is in accordance with the statutory rules and therefore the interference by this court is not warranted.

I have heard the learned Counsel for both the parties, and perused the material on record.

Rule 14 of the A.P. Co-operative Societies Rules, 1964 provides for admission of members in to cooperative societies. The said Rule deals with the requirements to be complied with for obtaining membership, its continuance and for participation in the elections. It is not in dispute that as per Rule 14 as it originally stood there was no condition that a member of an Agricultural Co-operative Credit Society shall hold agricultural land in the area of operation of the society either as the owner or as the tenant. However, under G.O.Ms.No.223, Agriculture & Co-operation (Co-op.IV) Department, dated 27-6-2005, sub-rule (2) has been added to the Rule 14 which runs as under :

> *"(2) An individual who seeks admission into an Agricultural Cooperative Credit Society, shall hold agricultural land in the area of*

operation of the society, either as owner or as tenant. A tenant who seeks membership shall produce evidence of his tenancy in the form of an agreement witnessed by two members of the same society, showing details of survey number, extent and boundaries of land, duly certified by the Panchayat Secretary of the Village concerned.

An individual as owner of agriculture land shall produce pattedar pass book or sale deed or certificate issued by the Panchayat Secretary of the Village concerned showing details of Survey number, extent and boundaries of the land."

A plain reading of the above Rule itself makes it clear that the requirement under Sub-rule (2) that a tenant who seeks membership shall produce evidence of his tenancy in the form of an agreement applies only to individuals who seek membership for the first time. There is nothing in the said Rule to indicate that the said condition shall be made applicable to the existing members also. The same has been made clear under G.O.Ms.No.353, dated 3-9-2005 whereunder the Government has exempted the members of the Primary Agricultural Co-operative Societies admitted prior to coming into force of the A.P. Co-operative Society (Amendment) Act, 2005 from the provisions contained in Rule 14 (2) of the Rules.

In the light of the above legal position, even assuming that the petitioner failed to produce the lease agreement as required under Rule 14 (2) of the Rules, in my considered opinion, the 1st respondent is not justified in not including the name of the petitioner in the list of members eligible to vote. From the averments in the counter-affidavit filed on behalf of the 1st respondent, no other ground has been made out to show that the petitioner is not eligible for inclusion in the said list.

It is relevant to note that having regard to the facts and circumstances of the case, this Court while directing Rule Nisi, by order dated 4-10-2005 passed an interim order directing the respondents to include the name of the petitioner in the voters list and allow him to participate in the election scheduled to be held on 26-10-2005. As per the election schedule, the date for publication of the voters list by the Election Officer in terms of Rule 22 (2) (b) (vi) of the Rules and for issue of Election Notice has been fixed as 10-10-2005. Much prior to that, the respondents were

directed to include the name of the petitioner. In the circumstances, there is absolutely no justifiable reason for not including the name of the petitioner in the voters list since the same in no way disturbs the election schedule, nor interdicts the election process.

For the aforesaid reasons, the Writ Petition is allowed declaring the impugned action of the respondents as arbitrary and illegal, and further directing the respondents to
include the name of the petitioner in the voters list and allow
him to participate in the election scheduled to be held on 26-10-2005. No costs.

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October, 2005.

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